

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**IN RE: NATIONAL PRESCRIPTION  
OPIATE LITIGATION**

This document relates to:

No. 22-op-45024-DAP;  
No. 21-op-45116-DAP;  
No. 19-op-46078-DAP.

MDL No. 2804

Hon. Dan Aaron Polster

**MOTION FOR LEAVE TO FILE  
SETTLING DISTRIBUTORS' SUPPLEMENTAL MOTION TO DISMISS  
CLAIMS FILED BY NEW YORK GOVERNMENTAL ENTITIES  
AS BARRED BY STATUTE**

In compliance with Case Management Order One ¶ 6(g) (Dkt. No. 232), Settling Distributors<sup>1</sup> move the Court for leave to file their Supplemental Motion To Dismiss Claims Filed By New York Governmental Entities As Barred By Statute (the “Motion”). The Motion seeks dismissal of claims brought by three New York government entities—Southwestern Central School District (purporting to represent all “similarly situated public school districts” in New York State), Friendship Engine & Hose Company, and the Erie County Medical Center (together the “Additional Entities”)—against Settling Distributors on the ground that the claims are barred by New York statute. A copy of the Motion is attached hereto as **Exhibit A**.

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<sup>1</sup> The Settling Distributors are AmerisourceBergen Corporation, AmerisourceBergen Drug Corporation, H.D. Smith LLC f/k/a H.D. Smith Wholesale Drug Co., McKesson Corporation, Cardinal Health, Inc., and Kinray LLC, as well as any other Released Entities, as that term is defined in the New York Agreement, that have been named as defendants in any of the cases at issue in this Motion. *See Exhibit A* fn. 1.

Dated: July 20, 2022

Respectfully submitted,

/s/ Robert A. Nicholas

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Smith Holdings, LLC and H. D. Smith Holding  
Company*

**CERTIFICATE OF SERVICE**

I hereby certify that, on July 20, 2022, the Motion for Leave to File Supplemental Motion To Dismiss Claims Filed By New York Governmental Entities As Barred By Statute was served on all counsel of record via the CM/ECF system.

*/s/ Robert A. Nicholas*

Robert A. Nicholas